

THIS DISPOSITION IS NOT  
CITABLE AS PRECEDENT OF THE TTAB    APRIL 11, 00

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Forum Foundation

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Serial No. 75/195,294

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Thomas W. Secrest for Forum Foundation.

Gerald C. Seegars, Trademark Examining Attorney, Law Office  
106 (Mary Sparrow, Managing Attorney).

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Before Seeherman, Hohein and Wendel, Administrative  
Trademark Judges.

Opinion by Seeherman, Administrative Trademark Judge:

Forum Foundation has appealed from the final refusal  
of the Trademark Examining Attorney to register QUEST FORUM  
as a trademark for "printed answer sheets on the topic of  
problem solving with respect to college fraternities and  
presenting a question and a plurality of answers for a

person to express an opinion."<sup>1</sup> Registration has been finally refused pursuant to Section 1, 2 and 45 and of the Trademark Act, 15 U.S.C. 1051, 1052 and 1127, on the ground that the applied-for term does not function as a trademark.

The appeal has been fully briefed; an oral hearing was not requested.

We affirm the refusal of registration.

In order to determine whether the asserted mark has been used as a trademark with respect to the identified goods, we must look to the specimens. **In re Bose Corp.**, 192 USPQ 213 (CCPA 1976); **In re Manco Inc.**, 24 USPQ2d 1938 (TTAB 1992); **In re Scientific Methods, Inc.**, 201 USPQ 917 (1979).

The specimens submitted by applicant consist of a single 8½ x 11" sheet of paper, with typescript on both sides. The front page (and it is clearly the front, with the word "over" appearing at the bottom), is headed THETA XI FRATERNITY COUNCILOR™ NETWORK PROPOSAL and contains a series of questions with respect to the fraternity councilor proposal. On the back page, at the end of the questionnaire, is a box with the following statements:

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<sup>1</sup> Application Serial No. 75/195,294, filed November 8, 1996 and asserting first use and first use in commerce on October 11, 1996.

"Fast Forum®," "Opinionnaire®," and "Viewspaper® are registered trademarks of the Forum Foundation, U.S. Patent Office; used by permission. *PLAN* Forum™, *QUEST Forum*™, *CENSUS Forum*™, *Future Molding Game*™, and *Fraternity Councilor*™ have been applied for to the U.S. Patent Office as registered trademarks of the Forum Foundation.

The indication that QUEST FORUM "has been applied for to the U.S. Patent Office" is the only mention of QUEST FORUM in the entire specimen.

In order to give an idea of the manner of use of the asserted mark, a copy of the two sides of the specimen is included as an attachment to this opinion.

We find that QUEST FORUM, as used on the specimens, does not function as a trademark to indicate the origin of applicant's printed answer sheets. As the courts and the Board have stated in numerous cases, the mere fact that a term or phrase appears on goods does not necessarily make it a trademark. Nor does mere intent that a term function as a trademark mean that the term does, in actuality, function in this manner. Thus, even the attachment of a trademark symbol is not, in and of itself, sufficient to make a term a trademark. See **In re Manco Inc.**, supra, and cases cited therein.

We have strong doubts about whether users of the answer sheets would so closely examine the sheets that they

would pay any attention to the listing of the various terms that applicant has either registered or has applied for. The list appears at the bottom of the second page, after the "thank you for participating paragraph" and before the "if you have any comments" paragraph. Moreover, the term QUEST FORUM is placed in approximately the middle of this listing. As a result, consumers are not likely even to notice the inclusion of this term.<sup>2</sup>

Even if they do, however, they would not regard the term as a trademark which identifies applicant's printed answer sheets. Rather, it appears as part of an informational statement giving a laundry list of the trademarks which applicant has or claims to have. Although its appearance in this informational statement may tell consumers, as applicant contends, that applicant intends QUEST FORUM to be considered as a trademark, and that applicant has expended time and effort in order to file an application for this mark with the "U.S. Patent Office," the manner in which the term is used would not apprise consumers that QUEST FORUM is being used as a trademark for

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<sup>2</sup> Even applicant's attorney may have been concerned about whether the Office would be able to find the term on the specimens, since he chose to highlight the term on each of the specimens which he submitted.

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the answer sheet on which the informational statement appears.

Decision: The refusal of registration is affirmed.

E. J. Seeherman

G. D. Hohein

H. R. Wendel  
Administrative Trademark Judges  
Trademark Trial and Appeal Board